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BAKER CONCRETE CONSTRUCTION, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

16 JAMES HERNANDEZ

Plaintiff.

v_a

19 BAKER CONCRETE
20 CONSTRUCTION, INC., a Ohio
Corporation,

Defendants.

CASE NO. 4:18-cv-03226-HSG

*Assigned to Hon. Judge Haywood S.
Gilliam, Jr.*

**STIPULATION FOR LEAVE TO
FILE FIRST AMENDED
COMPLAINT; [PROPOSED]
ORDER**

Complaint Filed: May 30, 2018

1 The parties, Plaintiff James Hernandez (“Plaintiff) and Defendant Baker Concrete
2 Construction, Inc. (“Defendant”), hereby stipulate to allow Plaintiff to file its First Amended
3 Complaint, which is attached hereto and lodged herewith as Exhibit A (“First Amended
4 Complaint”).

5 WHEREAS, Plaintiff represents that the proposed First Amended Complaint arises out of
6 the same transaction or series of transactions as Plaintiff’s claims already at issue in this action;

7 WHEREAS, Plaintiff represents that he has recently discovered new information that
8 forms the basis of the First Amended Complaint action and is acting in good faith in bringing the
9 proposed First Amended Complaint. Based on such, he has eliminated two causes of actions,
10 added three new causes of action, and added one defendant to the First Amended Complaint;

11 WHEREAS, Defendant does not oppose the filing of the proposed First Amended
12 Complaint as a procedural matter pursuant to this Stipulation, with the understanding and on the
13 basis that Defendant’s stipulation in this regard is without waiver of, or prejudice to, its rights,
14 defenses or positions in this action;

15 WHEREAS, Defendant will not be unduly prejudiced by the filing of the proposed First
16 Amended Complaint;

17 THEREFORE, subject to the approval of this Court, the Parties hereby stipulate and agree
18 as follows:

- 19 1. Defendant shall be granted leave to file the First Amended Complaint;
- 20 2. The First Amended Complaint shall be deemed filed and personally served on
21 Defendants as of the date that this Stipulation is approved by the Court; and
- 22 3. Any responsive pleading to the First Amended Complaint shall be filed and served
23 within thirty (30) days after this Stipulation has been approved by the Court.

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1 IT IS SO STIPULATED.
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3 Dated: December 5, 2018

GORDON REES SCULLY MANSUKHANI

5 By: /s/ Craig D. Nickerson

6 Craig D. Nickerson

7 Marshall R. Lurtz

8 Attorneys for Defendant

Baker Concrete Construction, Inc.

9 Dated: December 5, 2018

McCormack and Erlich, LLP

11 By: /s/ Bryan J. McCormack

12 Bryan J. McCormack

13 Attorney for Plaintiff

James Hernandez

17 PURSUANT TO STIPULATION, IT IS SO ORDERED except the Plaintiff is directed
18 to e-file the first amended complaint on the docket by the close of business today, December 17th.

20 Dated: 12/17/2018


21 Hon. Judge Haywood S. Gilliam, Jr.